

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK  
POUGHKEEPSIE DIVISION

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IN RE

JENNY RAMOS AND MARISA C. GARCIA

DEBTORS

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CHAPTER 13

CASE NO. 18-35203

JUDGE: Cecelia G. Morris

**OBJECTION TO CONFIRMATION**

Thomas Szaniawski, Esq., an attorney admitted to practice in this Court, affirms the following under penalty of perjury:

1. I am an associate with Shapiro, DiCaro & Barak, LLC, attorneys for PHH Mortgage Corporation, and am familiar with the facts and circumstances surrounding this matter.

2. PHH Mortgage Corporation holds a mortgage on the Debtors' real property known as 12 Princeton Drive, Walden, NY 12586 (the "Property").

3. PHH Mortgage Corporation will be filing a Proof of Claim for pre-petition mortgage arrears in the approximate amount of \$43,225.66, which will be filed with the Court by the bar date of April 17, 2018. Debtors' proposed Chapter 13 Plan lists arrears as "unknown" and makes no provision for full payment of the mortgage arrears in violation of Bankruptcy Code § 1325(a)(5)(B)(ii). Although the Plan does request participation in Loss Mitigation, the outcome of that process is inherently uncertain.

4. The Plan is not feasible. The Plan does not contain funds sufficient to pay the pre-petition mortgage arrears in full as required by Bankruptcy Code § 1325(a)(5)(B)(ii).

5. Although the Plan appears to provide for post-petition mortgage payments in Part 3.2(a), the box "None" at the beginning of Part 3.2 is checked. Thus, the Plan is in fact ambiguous with respect to post-petition mortgage payments.

6. Although the Plan asserts that the value of the Property is \$195,000, PHH does not concede to that valuation. Should valuation become relevant in this case, PHH reserves its right to adduce independent evidence of the value of the Property and have the Court determine the same pursuant to Bankruptcy Code § 506(a) and Federal Rule of Bankruptcy Procedure 3012.

**WHEREFORE**, the undersigned respectfully requests the Debtor to amend their Chapter 13 Plan to address the proper mortgage arrears and resolve the ambiguity regarding post-petition mortgage payments as specified earlier or, in the absence of an amendment to the Plan, the undersigned respectfully requests an Order of this Court denying confirmation of Debtors' Chapter 13 Plan pursuant to Bankruptcy Code § 1325 and such other and further relief as may be just and proper.

Dated: February 26, 2018

/s/Thomas Szaniawski

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